



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 6, 1993

Mr. Jeff Hankins  
Legal Assistant  
Regulated Lines Section, Legal Services, 110-1A  
Texas Department of Insurance  
P.O. box 149104  
Austin, Texas 78714-9104

OR93-423

Dear Mr. Hankins:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 20330.

The Texas Department of Insurance (the "department") has received a request for information concerning W. Silver, Inc. You contend the requested information is excepted from public disclosure under sections 3(a)(3), 3(a)(7), and 3(a)(11) of the Open Records Act.

Section 3(a)(3) excepts

information relating to litigation of a criminal or civil nature and settlement negotiations, to which the state or political subdivision is, or may be, a party, or to which an officer or employee of the state or political subdivision, as a consequence of his office or employment, is or may be a party, that the attorney general or the respective attorneys of the various political subdivisions has determined should be withheld from public inspection.

Information must relate to litigation that is pending or reasonably anticipated to be excepted under section 3(a)(3). *Heard v. Houston Post Co.*, 684 S.W.2d 210 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4. Section 3(a)(3) is not, however, limited to cases before a court, but also extends to quasi-judicial administrative proceedings, *i.e.*, contested cases under the Administrative Procedure and Texas Registrar Act ("APTRA"), V.T.C.S. article 6252-13a. Open Records Decision No. 301 (1982).

You contend that "[t]he requested information relates to an ongoing investigation of National Union Fire Insurance Company for alleged violations of state insurance laws." You state that the department "has already sent its notice of intent to institute disciplinary action against the [National Union Fire Insurance Company]." You informed this office, by a telephone call on June 28, 1993, that a "disciplinary action" is an administrative proceeding under APTRA. You also inform us that "[t]he attorney responsible for reviewing this matter has determined that the requested information is directly related to the anticipated litigation." Because you have made a determination in good faith that the requested information is directly related to anticipated litigation, you may withhold the information under section 3(a)(3) of the Open Records Act. Since we resolve your request under section 3(a)(3), we do not reach your section 3(a)(7) and 3(a)(11) claims.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Mary R. Crouter  
Assistant Attorney General  
Opinion Committee

MRC/LBC/lmm

Ref.: ID# 20330

Enclosures: Submitted documents

cc: Mr. Steven R. Hatch  
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(w/o enclosures)